

## **EXHIBIT 51**

DOE's August  
2021  
Presentation

(Depo. Ex. 7)

EXHIBIT 7

D. Fenton

5/17/2023

Reporter: Sharon Saalfeld  
RDR, CRR

**From:** "Fenton, Diana" <Diana.E.Fenton@doe.nh.gov>  
**To:** "Farrell, Richard" <Richard.J.Farrell@doe.nh.gov>  
**Subject:** code of conduct  
**Date:** Tue, 17 Aug 2021 12:44:24 -0000

**Importance:** Normal

**Attachments:** continued\_excellence--HB2.pptx

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I updated it to include Section 297 or HB 2—pls review.

~~~~~  
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New Hampshire Department of Education  
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Concord, NH 03301  
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New Hampshire

# Department of Education



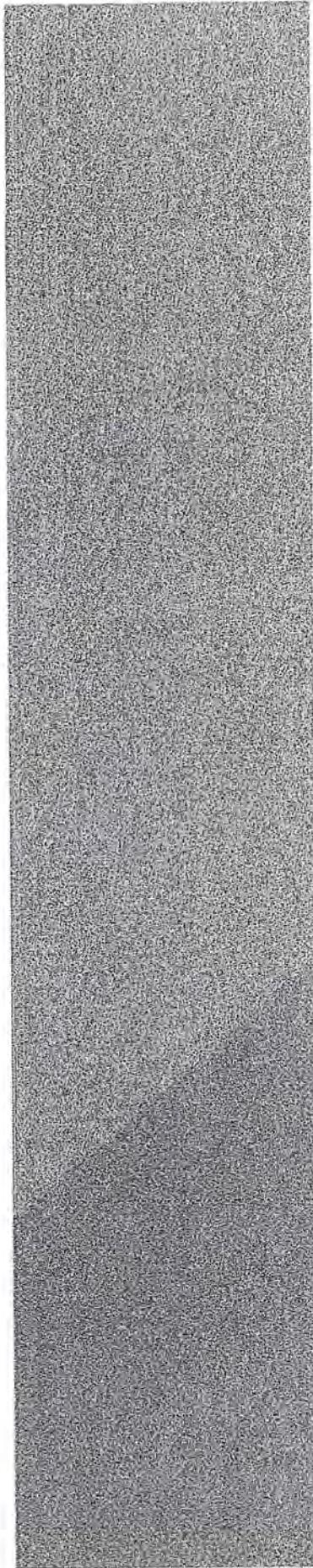
CONTINUED  
ON THE  
RECORD  
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TO THE  
SCHOOL  
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MADE  
BY THE  
GENERAL  
COUNSEL  
OF THE  
DEPARTMENT  
OF EDUCATION  
FOR THE  
PURPOSE  
OF DETERMINING  
THE  
LEGAL  
VALIDITY  
OF THE  
REGULATIONS  
AND  
PRACTICES  
OF THE  
NEW HAMPSHIRE  
DEPARTMENT  
OF EDUCATION  
AS THEY  
AFFECT  
THE  
RIGHTS  
OF  
STUDENTS  
AND  
PARENTS  
IN  
THE  
NEW HAMPSHIRE  
SCHOOL  
SYSTEM

Diana E. Fenton, Esq., Chief, Governance Unit  
Richard Farrell, Investigator

**“An ethics code reflects a collective decision that a profession is better off when ethical standards are not based solely on individual assessments of what is or is not acceptable.”**

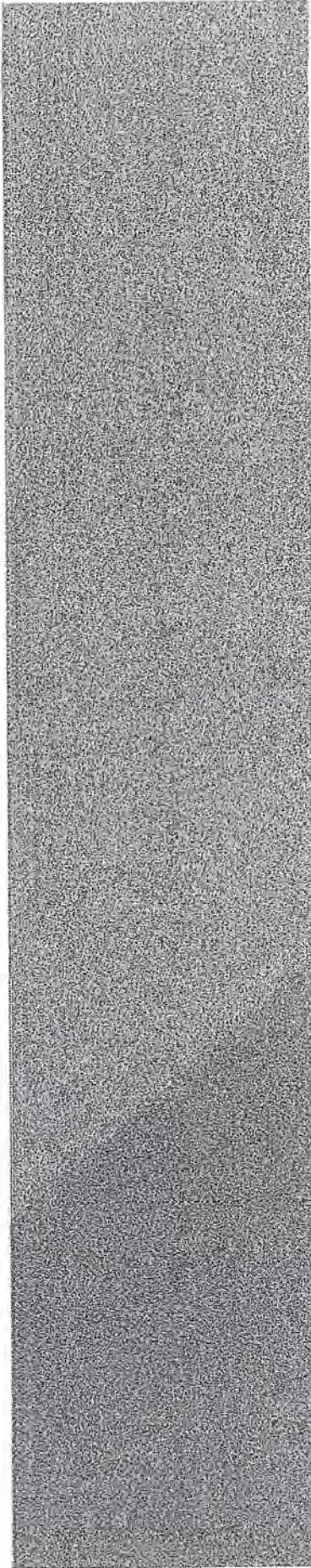
Fisher, C. (2013). Decoding the Ethics Code: A practical guide for psychologists (3rd edition).

Code of Conduct is Not Punishment—  
**It is about Process!!!**



## A BRIEF HISTORY OF CREATING THE CODE OF ETHICS & CODE OF CONDUCT

- June 2015—PSB began to look into a code of ethics;
- August 2016—Commissioner Barry created Ethics Task Force;
- Sept-Dec 2016—Task Force begins work on Code of Ethics;
- April 2017—HB 210 signed into law;
- Sept-Dec 2017—Task Force transitions focus to Code of Conduct;
- Summer of 2018—State Board accepts Code of Ethics;
- November 2018—State Board adopts Code of Conduct



## STAKEHOLDERS





# RULES

Principle 1 – Responsibility to the Education Profession and Ethical Use of Technology  
 Principle 2 – Responsibility to Students  
 Principle 3 – Responsibility to the School Community  
 Principle 4 – Responsible and Ethical Use of Technology  
 ED 510.05 Duty to Report

## PART ED 510 INVESTIGATIONS AND DISCIPLINARY PROCEDURES

Section ED 510.01 Complaints, Cases and Investigations  
 Section ED 510.02 Response, Investigation, and Resolution  
 Section ED 510.03 Disciplinary Hearings  
 Section ED 510.04 Status of a Credential, Foothold Condition or Disciplinary Proceedings  
 Section ED 510.05 Penalties for Violations and Allegations

## PART ED 512 CREDITS OR CERTIFICATION

ED 512.01 MASTER & PLANS AND CERTIFICATION  
 ED 512.02 Classroom Development Master Plans  
 ED 512.03 Classroom Development Master Plan  
 ED 512.04 Classroom Development Master Plan  
 ED 512.05 Classroom Development Master Plan  
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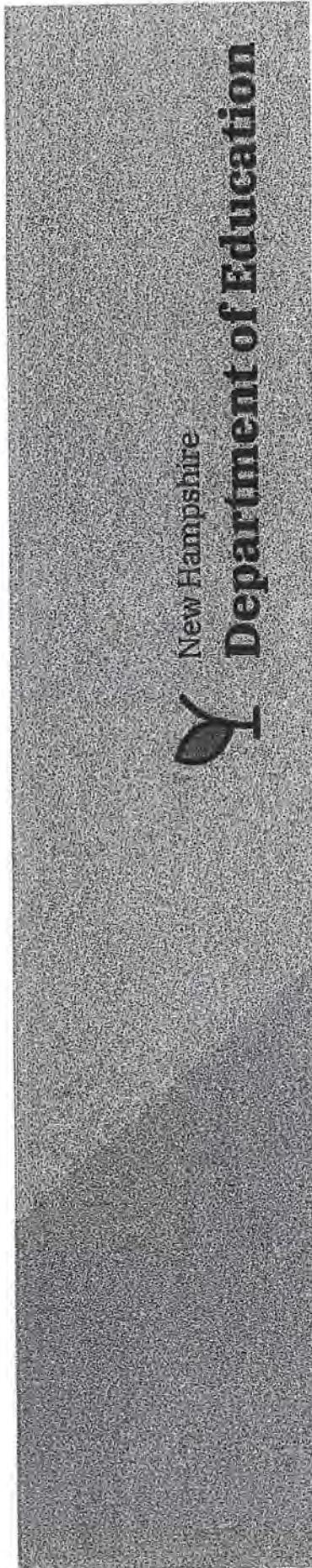
## PART ED 510 CODE OF CONDUCT

Section ED 510.01 Principle 1 – Responsibility to the Education Profession and Ethical Use of Technology  
 Section ED 510.02 Principle 2 – Responsibility to Students  
 Section ED 510.03 Principle 3 – Responsibility to the School Community  
 Section ED 510.04 Principle 4 – Responsible and Ethical Use of Technology  
 Section ED 510.05 Duty to Report

ED 510.01 PRINCIPLES FOR ETHICAL PRACTICE  
 ED 510.02 Validated Studies  
 ED 510.03 Highly Qualified Teacher  
 ED 510.04 Definitions

ED 510.05 PROFESSIONAL PROGRAM APPROVAL  
 ED 510.06 Approval Process  
 ED 510.07 Certification Requirements  
 ED 510.08 Demonstration Components  
 ED 510.09 Approval Requirements  
 ED 510.10 Application Forms  
 ED 510.11 Options  
 ED 510.12 Options

ED 510.13 Approval Recommendation

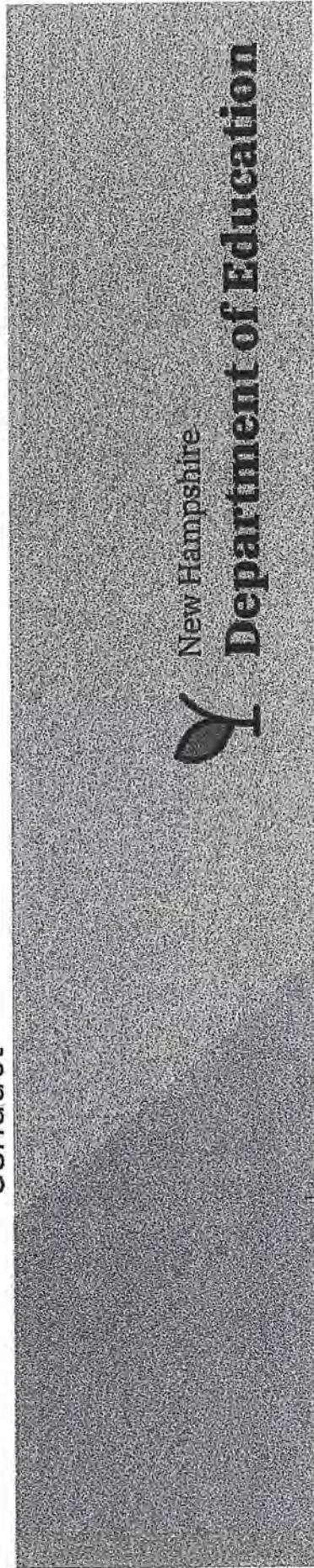


New Hampshire  
Department of Education

# THE DIFFERENCE



**Code of Conduct**  
*NH's Principles of Professional  
Conduct*

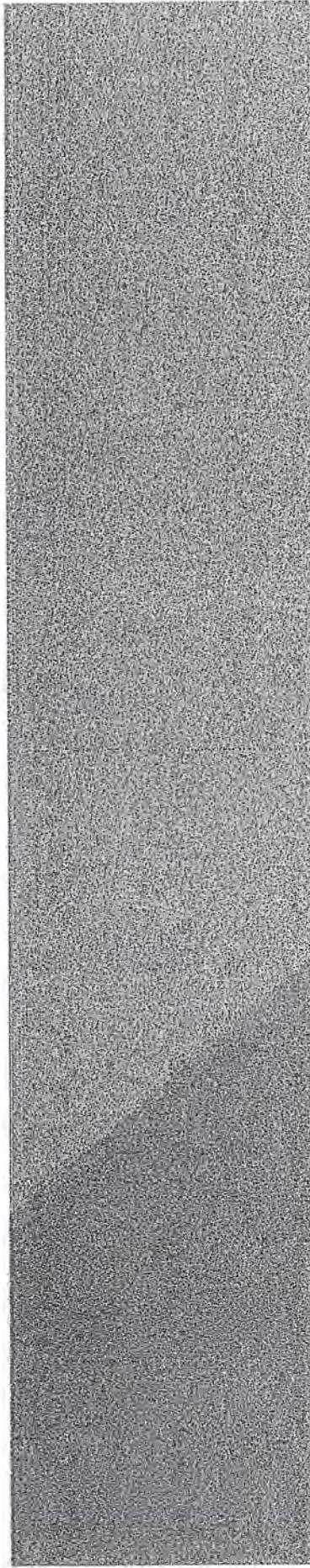


## ARE YOU TALKING TO ME?

Who is the document applicable to??

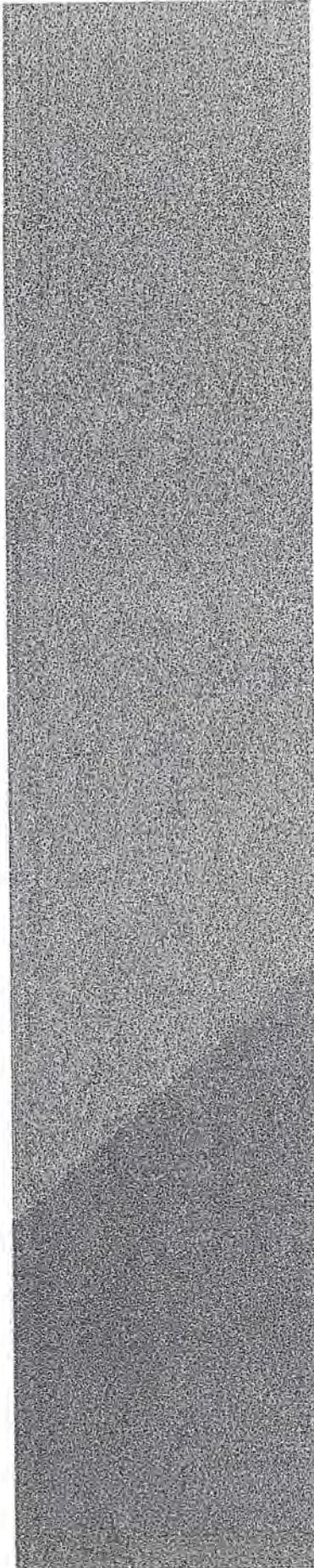
Code of Ethics—Applicable to all educators and all school personnel

Code of Conduct—Applicable to all credential holders  
“Credential” is defined in Ed 501.02(g)—page 9 of the  
Code of Ethics & Conduct booklet!



## WHY IS A CODE OF CONDUCT IMPORTANT?

- Child Safety should not be determined by zip code!!
- Teachers are asked to play an increasingly expansive role in students' lives without any discussion of the inherent risks of this.
- All professions that are characterized by intimate relationships rely on professional standards and norms that help them recognize and respond appropriately when navigating interactions.

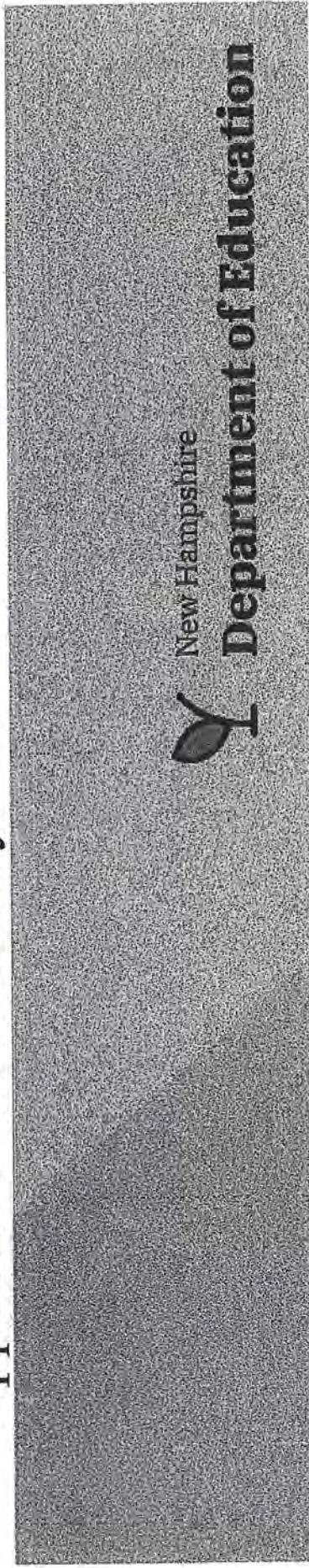


## CODE OF CONDUCT vs. CODE OF ETHICS

Code of Ethics is guidance—aspirational in nature—articulates responsibilities common to all members of the education profession.

Code of Conduct establishes the lowest standard of care—it is actionable only against credential holders

Applicable on or off duty!



## CODE OF ETHICS & CONDUCT

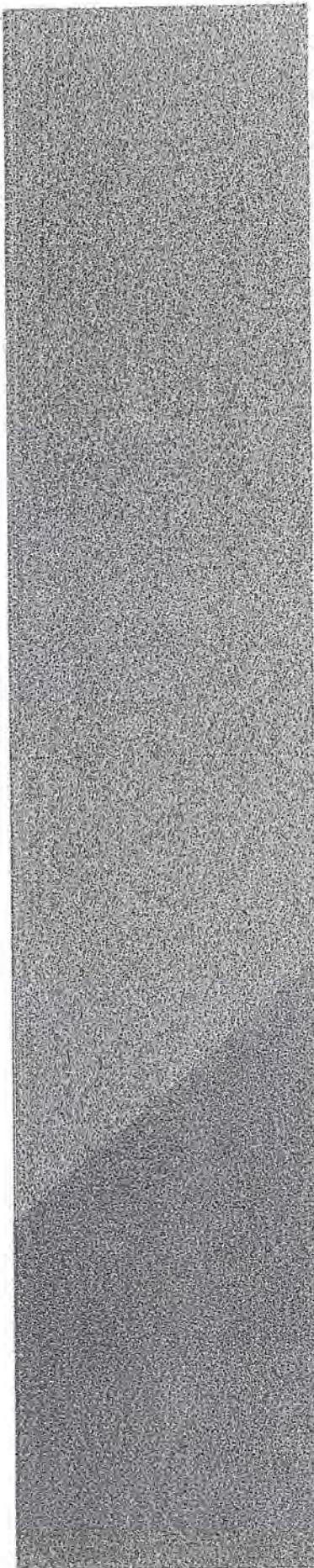
### *Difference in language:*

#### *Code of ethics:*

When communicating with students, utilizes social media responsibly, transparently and primarily for the purposes of teaching and learning

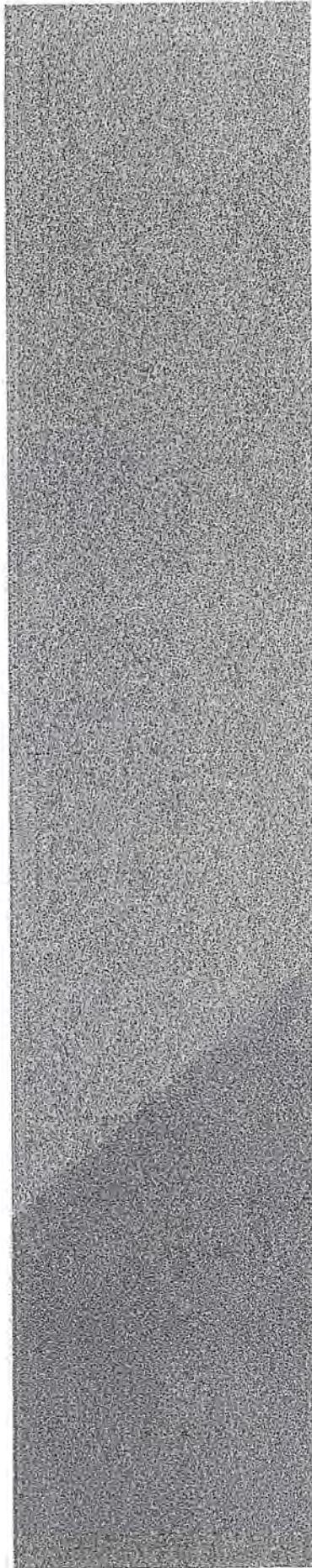
#### *Code of Conduct:*

An educator shall not engage in harassment, stalking, or bullying via electronic media.



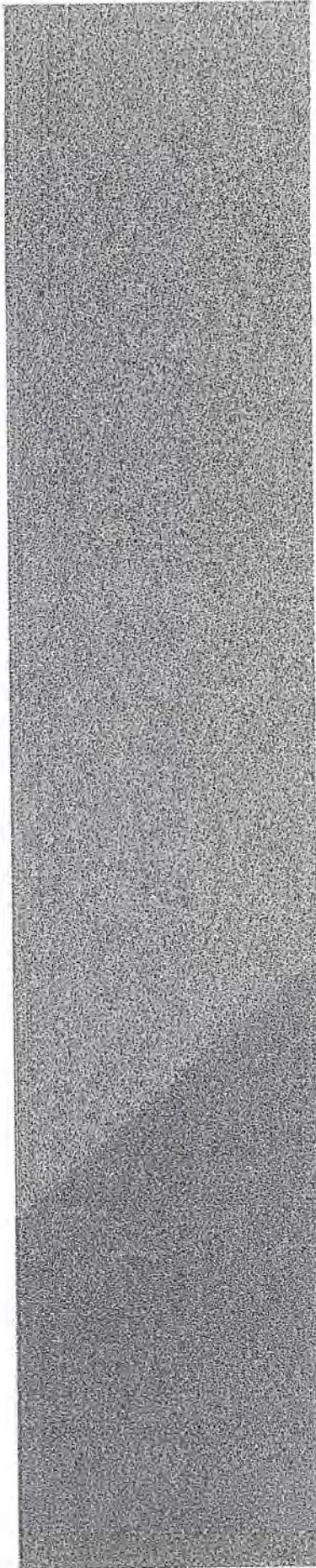
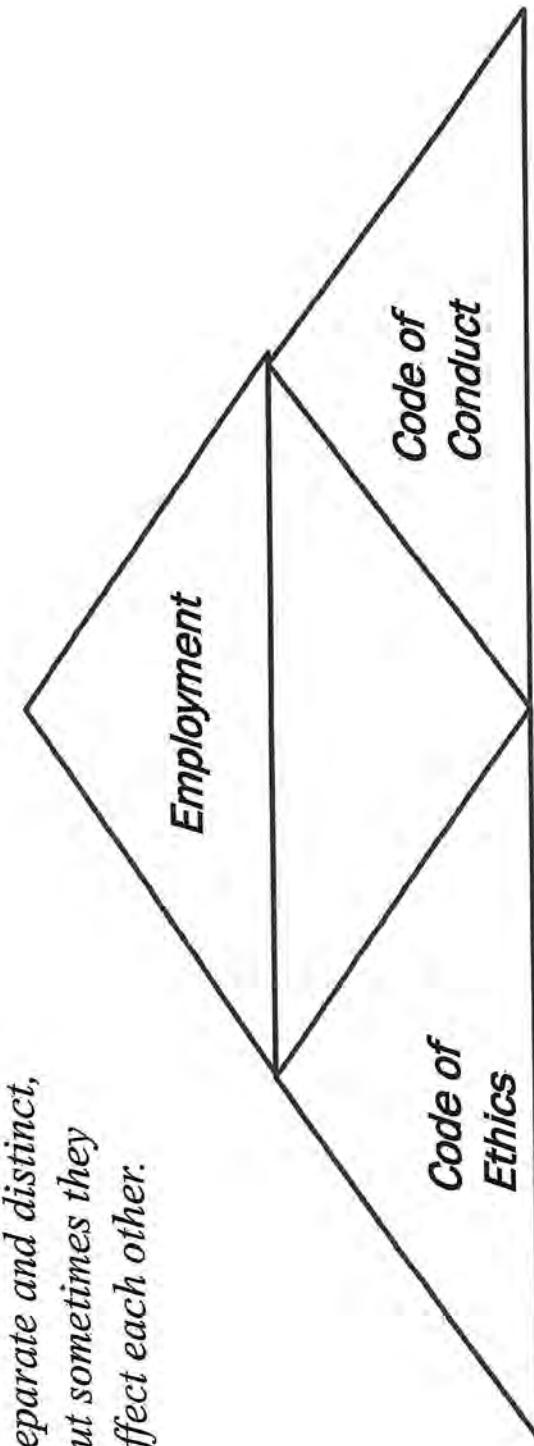
## EMPLOYMENT VS. LICENSURE

- Licenses are required in professions that require public trust;
- Employment and licensure are separate concepts;
- The Department's role is *broader in jurisdiction, but narrower in scope.*



# The Analysis.....

*Separate and distinct,  
but sometimes they  
affect each other.*



# CODE OF ETHICS & CONDUCT

## Four Principles:

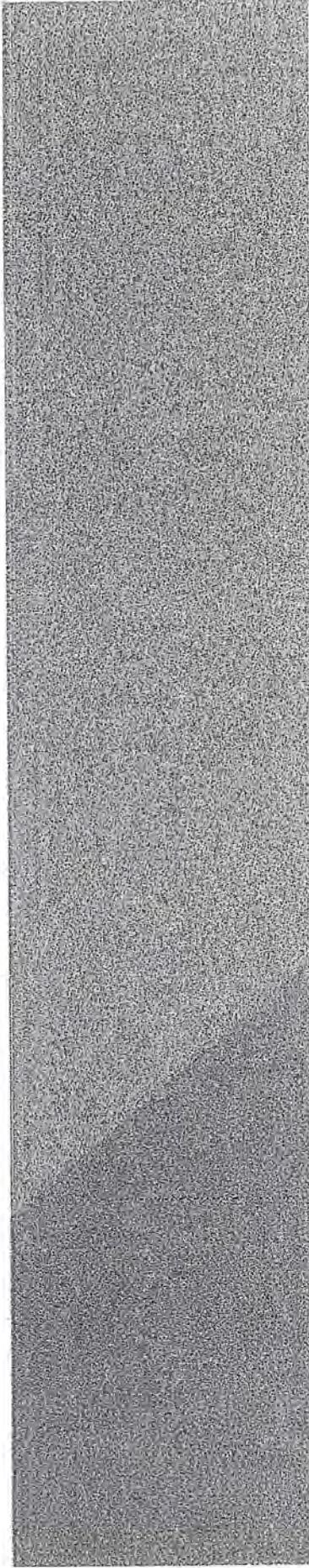
Principle I—Responsibility to the Education Profession and Educational Professionals;

Principle II—Responsibility to Students;

Principle III—Responsibility to the School Community;

Principle IV—Responsible and Ethical Use of Technology

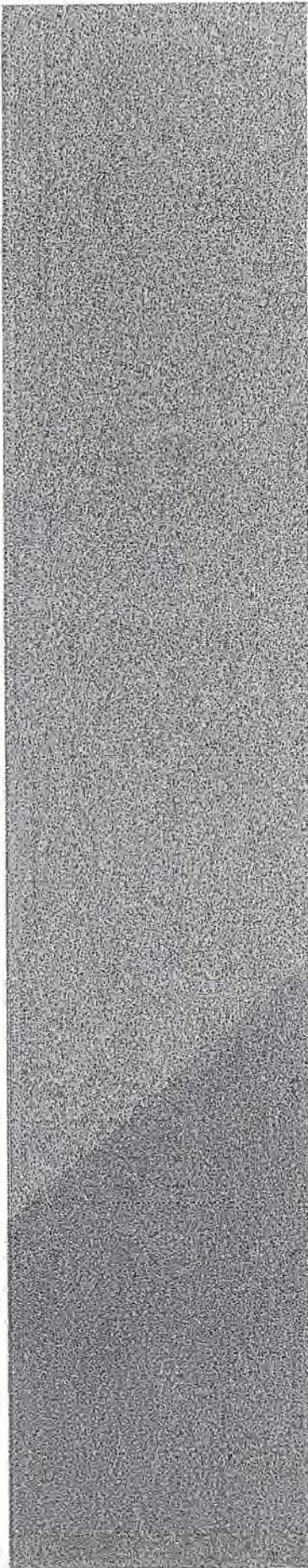
\*\*Principle V—Duty to Report



## **CODE OF CONDUCT—PRINCIPLE 1 (ED 510.01)**

### ***Responsibility to the Education Profession & Educational Professionals:***

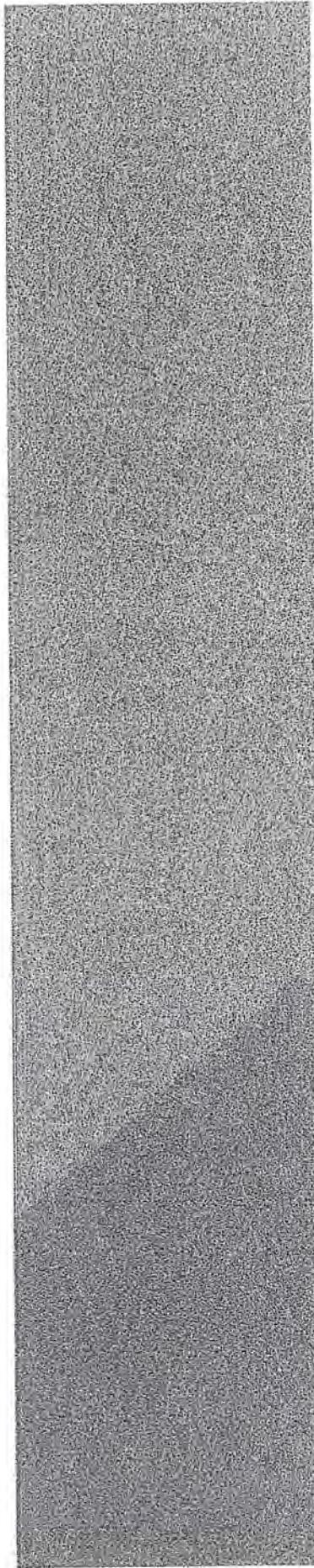
- Failure to report if arrested for RSA 189:13-a, V offense;
- Falsifying professional qualifications;
- Unlawful possession of drug;
- Possessing or being under influence of drugs or alcohol on school premises or school sponsored activity where students are present.



## **CODE OF CONDUCT—PRINCIPLE II (ED 510.02)**

### ***Responsibility to Students:***

- Failure to provide appropriate supervision of students pursuant to local policy;
  - Furnishing alcohol or illegal drugs to students;
  - Engaging in sexual activity with student;
  - Soliciting participation in sexual relationship
- \* “Student” is defined as being up to 10 months after graduation

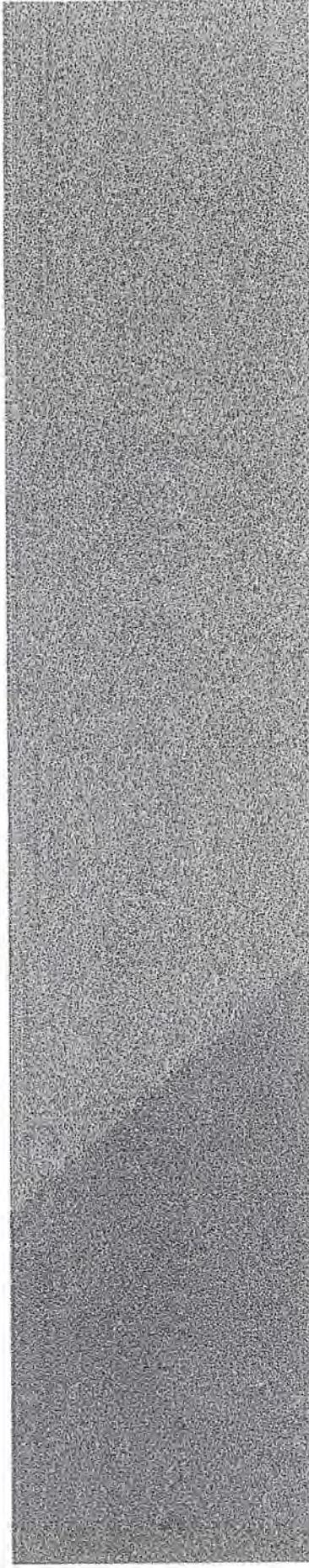


## **CODE OF CONDUCT—PRINCIPLE III (ED 510.03)**

### ***Responsibility to the School Community:***

- Accepting gifts or favors where there might be an actual or appearance of a conflict of interest
- \*\*Gifts of small amount shall NOT be deemed conflict of interest.

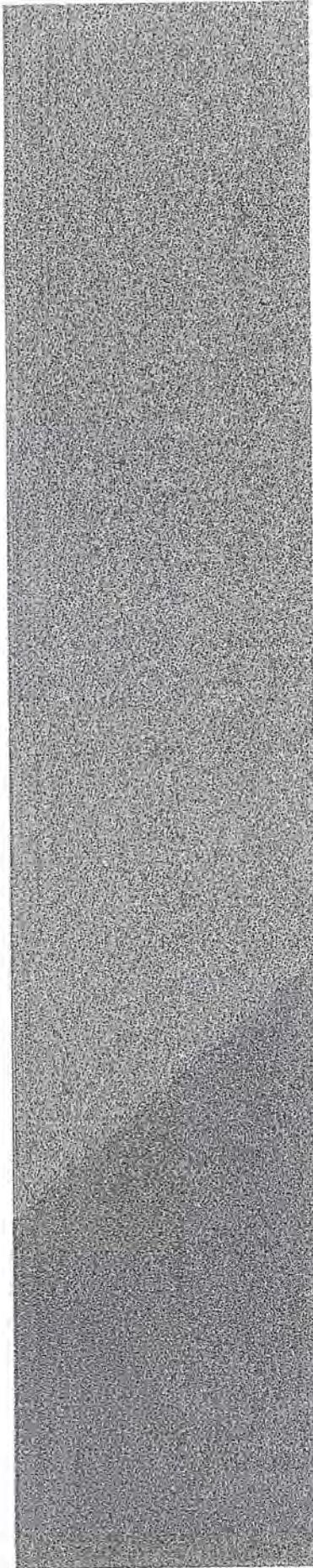
- Misuse of funds for use by the school
- Intentional altering or misrepresenting student assessments, results or official school records.



**SO WAIT JUST A MINUTE.....**

What if a parent gives me a bottle of wine as a present?

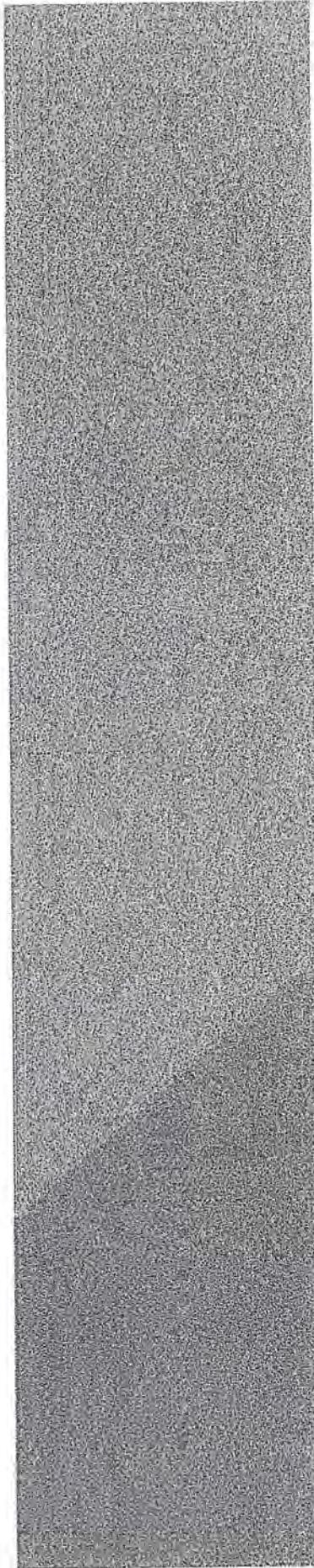
Am I going to lose my license for that??



## CODE OF CONDUCT—PRINCIPLE IV (ED 510.04)

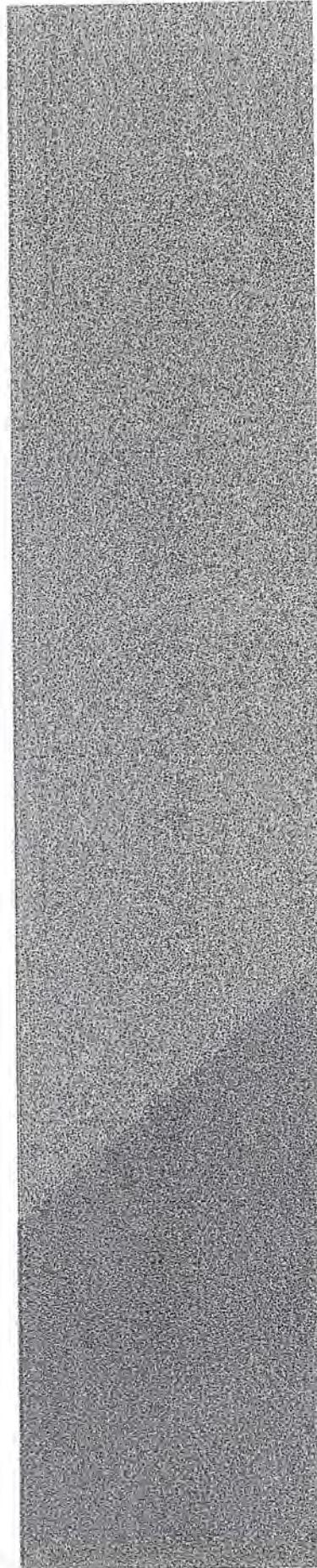
### *Responsible & Ethical Use of Technology:*

- Soliciting a sexual relationship with a student
- Engaging in inappropriate communication—intent, timing, subject matter and amount of communication and whether communication could reasonably be interpreted as being sexual in nature.
- \* “Student” is defined as being up to 10 months after graduation



## I NEED SOME EXAMPLES OF WHAT YOU ARE SAYING

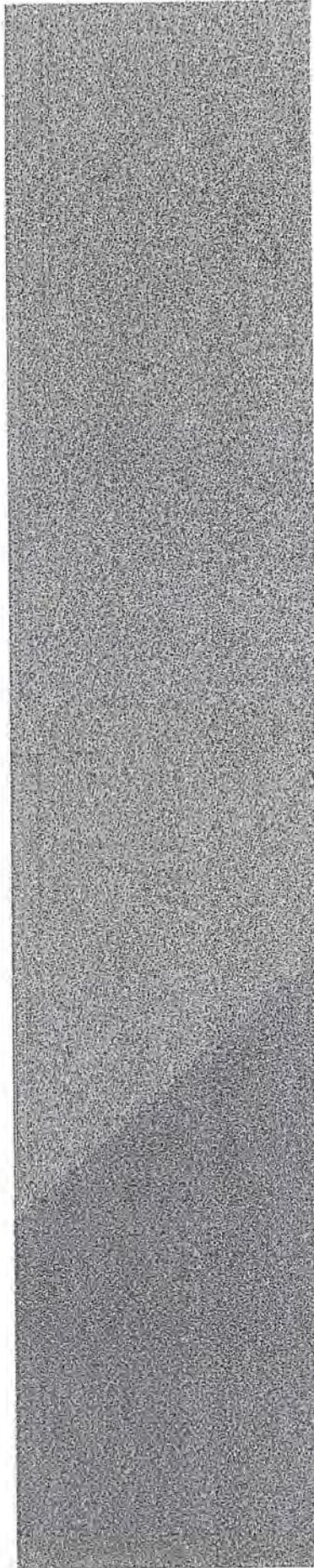
- “YOU were one of my rare accomplishments”
- “I saw special in you from the beginning”
- “I felt compelled to both nurture and provocatively challenge [your thoughts]”



## CODE OF CONDUCT—PRINCIPLE V (ED 510.05)

### *Duty to Report:*

- Any credential holder shall report any suspected violation of the code of conduct
- Superintendent shall report to office of credentialing when a credential holder has been arrested for RSA 189:13-a and violated code of conduct
- Credential holders shall report abuse or neglect



# PROHIBITION ON TEACHING DISCRIMINATION

- Section 297 & 298 of HB 2 was passed during the 2021 Legislative Session

- I. No pupil in any public school in this state shall be taught, instructed, inculcated or compelled to express belief in, or support for, any one or more of the following:
  - (a) That one's age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion or national origin is inherently superior to people of another age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion, or national origin;
  - (b) That an individual, by virtue of his or her age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion or national origin, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

# PROHIBITION ON TEACHING DISCRIMINATION

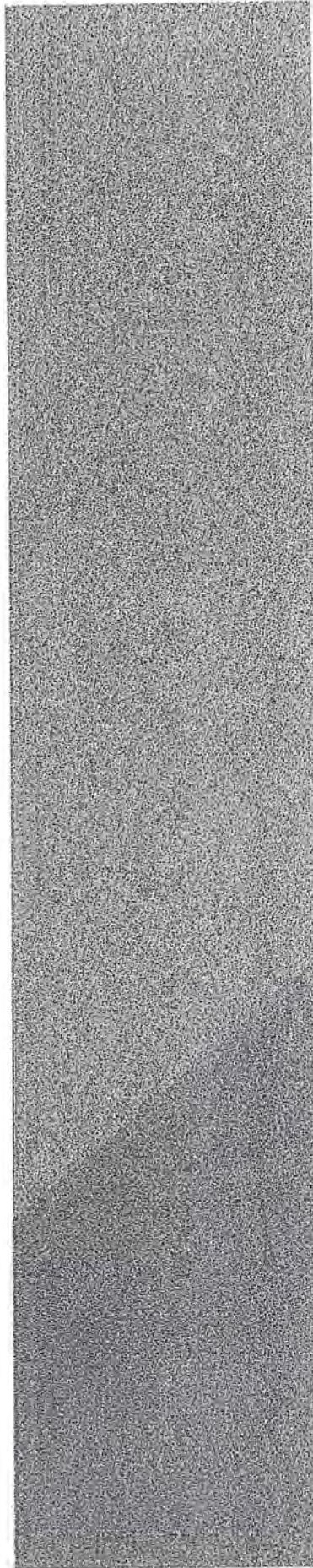
- (c) That an individual should be discriminated against or receive adverse treatment solely or partly because of his or her age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion, or national origin; or
- (d) That people of one age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion, or national origin cannot and should not attempt to treat others without regard to age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion, or national origin.

II. Nothing in this section shall be construed to prohibit discussing, as part of a larger course of academic instruction, the historical existence of ideas and subjects identified in this section.

## PROHIBITION ON TEACHING DISCRIMINATION

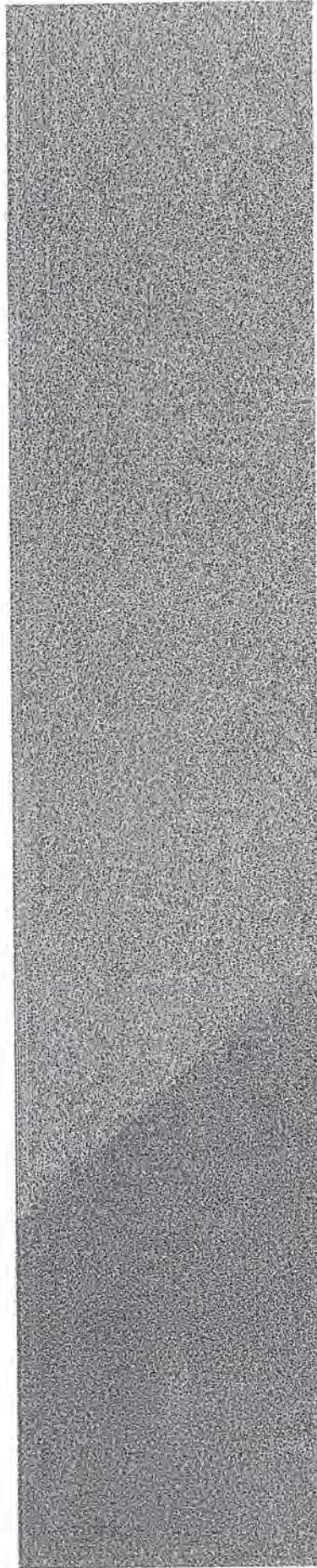
- All suspected violations of this new law are to be reported to the Human Rights Commission
- The Human Rights Commission will adjudicate these cases
- A finding of a violation of this law by the Human Rights Commission shall be a violation of the Code of Conduct for educators.

*\*\*\*Please see Technical Advisory by the NH Attorney General's Office on this law for more guidance.*



## INVESTIGATIONS—ED 511.01

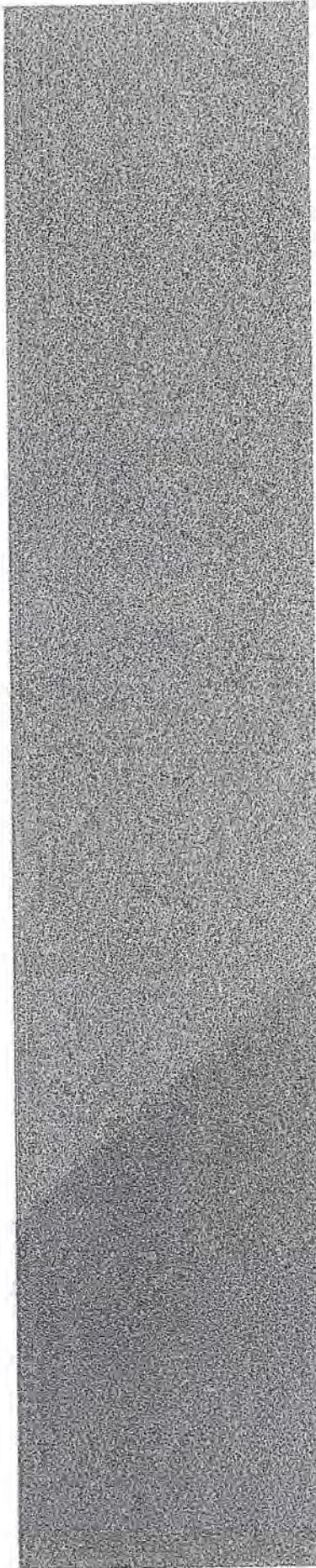
- Initial review
- Credential holder is notified if placed under investigation
- Superintendent is notified if credential holder is placed under investigation



# INVESTIGATIONS—ED 511.01

This letter serves as the official notification, pursuant to New Hampshire Administrative Rule Ed. 511.01, that the New Hampshire Department of Education has initiated an investigation into a complaint against you which alleges that you engaged in an act or acts which violate the New Hampshire Code of Conduct for Educational Professional as enumerated in Ed. 510.01-510.04.

Specifically, the Department of Education has become aware of an action(s) which may have violated Ed ----- of the Code of Conduct for Educational Professionals. Specifically, the allegation is that you ----- . At this time, no action has been taken against your teaching credential. Therefore, your teaching credential is still valid during this pending investigation. A copy of this letter will be provided to the superintendent of SAU ----- and the Union.



## **SANCTIONS—ED 511.02**

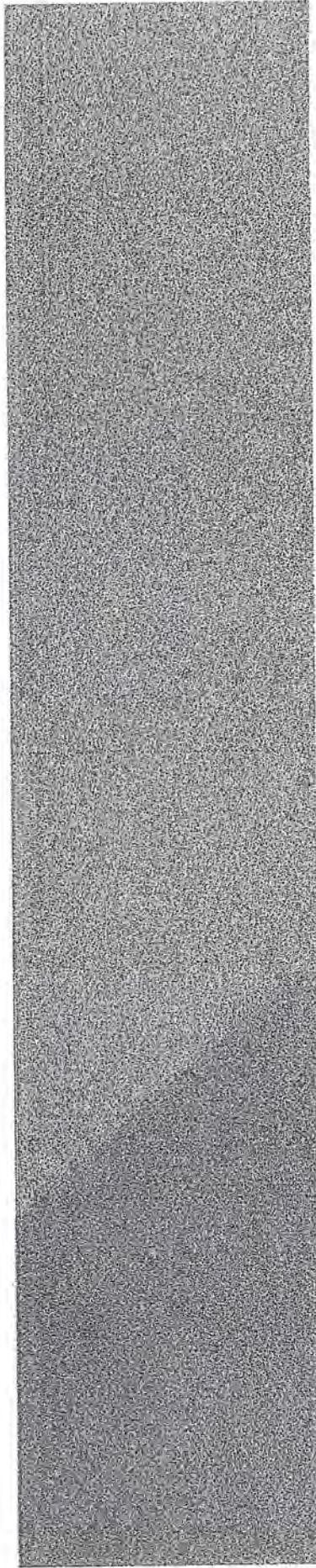
**Four options—3 forms of sanction:**

*Close out case*—Allegation unfounded—no action taken

*Suspension*—rescinded for set period of time

*Revocation*—permanently rescinded

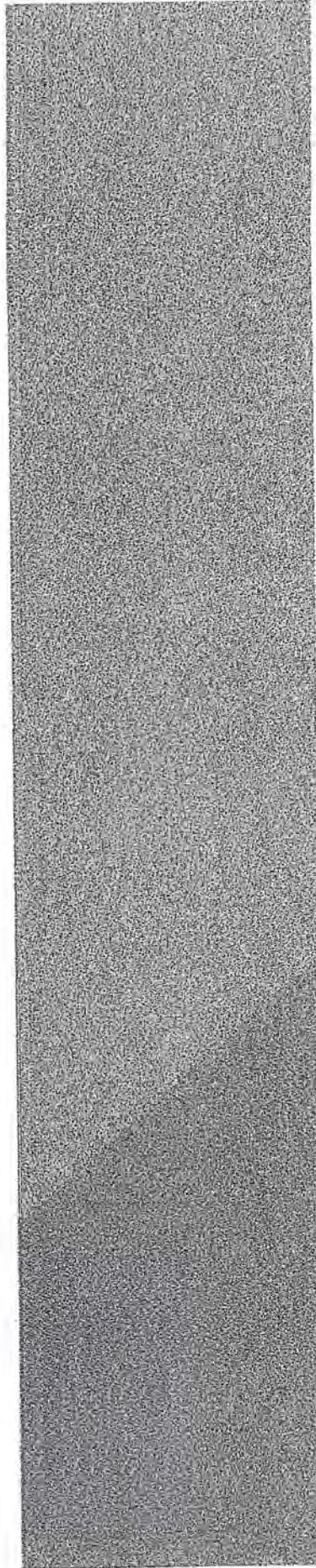
*Reprimand*—note to file of credential holder



## INVESTIGATIONS—ED 511.01

### Considerations of sanctions:

- Seriousness of offense;
- Prior disciplinary record
- Potential harm to students
- Purpose of the rule violated



## REPRIMAND, SUSPENSION OR REVOCATION

Ed 511.02

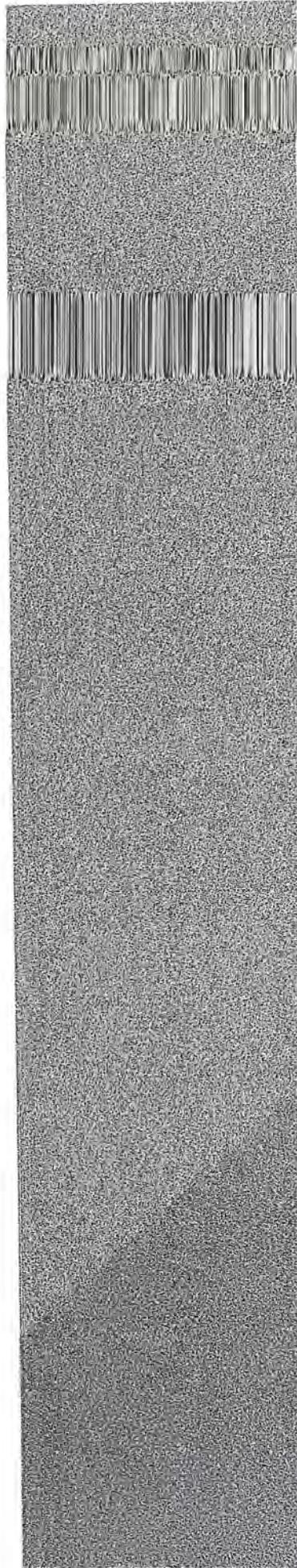
- All discipline is documented in writing
- Signed by all parties
- Maintained in electronic credentialing file

Ed 502.01

List of suspended and revoked educators is maintained and is on  
DOE website

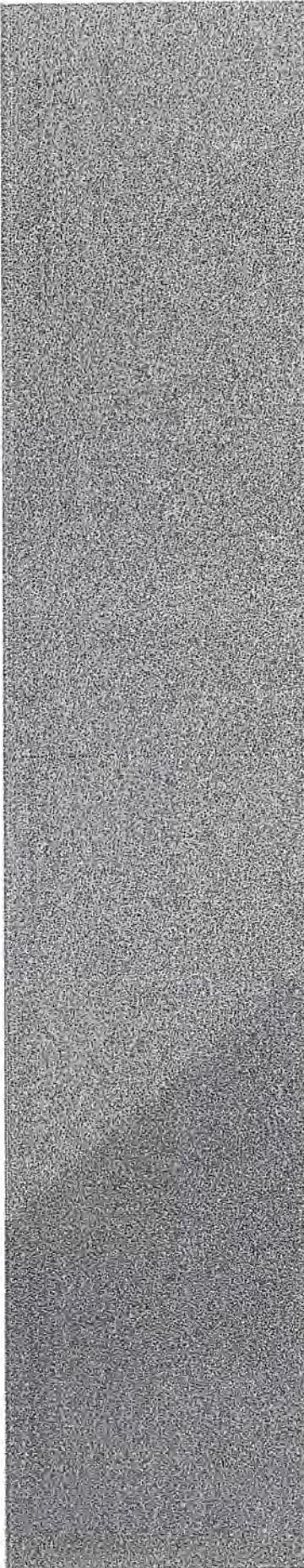
Ed 511.05

Grounds for Reinstatement after Suspension



## **OTHER ISSUES TO BE AWARE OF—ED 511.04**

- If arrested for RSA 189:13-a, V, DOE can do an immediate suspension of credential
  - Credential holder and school district will be notified
  - Credential holder is entitled to hearing within 10 days.



# NEED TO REPORT?

**Richard Farrell, Investigator**  
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231-0521 (cell)

**Diana Fenton, Esq. Chief of the Governance Unit**  
271-3189 (office)  
325-2198 (cell)

